

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JASMINA KOZOMARA,

Plaintiff,

Case No. 19-cv-955-pp

v.

ANDREW SAUL,

Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED
WITHOUT PREPAYING THE FILING FEE (DKT. NO. 3)**

The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying her claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. She also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 3.

To allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that she does not have the ability to pay the filing fee. The plaintiff's affidavit indicates that she is not employed, she is married, and she and her spouse have one minor child they are responsible for supporting. Dkt. No. 3 at 1. The plaintiff has no wages or salary of her own, and her husband earns \$2,000-\$3,000 "or less" per month. Id. at 2. The plaintiff lists expenses of \$8,750 per month and

indicates that her “husband[’s] business went down and [they] are living on the credit cards.” *Id.* at 3-4. The plaintiff and her husband own their home and a car worth approximately \$10,000; they are making a lease payment on a second car. *Id.* at 3. The plaintiff has no cash on hand or in a checking or savings account, and she owns no other property of value. *Id.* at 3-4. The plaintiff has demonstrated that she cannot pay the \$350 filing fee and \$50 administrative fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. *Denton v. Hernandez*, 504 U.S. 25, 31 (1992) (quoting *Nietzke v. Williams*, 490 U.S. 319, 325 (1989); *Casteel v. Pieschek*, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner’s final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See *Roddy v. Astrue*, 705 F.3d 631, 636 (7th Cir. 2013).

The plaintiff’s complaint indicates that she is disabled and has been denied benefits. Dkt. No. 1 at 2. The plaintiff alleges that the decision denying her benefits was not in accordance with the purpose and intent of the Social Security Act, is not supported by substantial evidence and is contrary to law. *Id.* at 2. At this early stage in the case, and based on the information in the plaintiff’s complaint, the court concludes that there may be a basis in law or in

fact for the plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's motion for leave to proceed without prepaying the filing fee. Dkt. No. 3.

Dated in Milwaukee, Wisconsin this 3rd day of July, 2019.

BY THE COURT:



HON. PAMELA PEPPER
United States District Judge